(13)

No. 87-1379

In the Supreme Court of the United States

OCTOBER TERM, 1987

UNITED STATES DEPARTMENT OF JUSTICE, ET AL.,
Petitioners,

vs.

REPORTERS COMMITTEE FOR FREEDOM
OF THE PRESS, ET AL.,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

BRIEF OF AMICI CURIAE THE AMERICAN NEWSPAPER PUBLISHERS ASSOCIATION, THE AMERICAN SOCIETY OF NEWSPAPER EDITORS, NATIONAL ASSOCIATION OF BROADCASTERS, THE MIAMI HERALD PUBLISHING COMPANY, THE WASHINGTON POST AND McCLATCHY NEWSPAPERS, INC.

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STATEMENT OF INTEREST OF AMICI CURIAE

Amici curiae The American Newspaper Publishers Association, The American Society of Newspaper Editors,

National Association of Broadcasters, The Miami Herald Publishing Company, The Washington Post and McClatchy Newspapers, Inc. (the "*amici*") file this brief in support of Respondents Reporters Committee for Freedom of the Press and Robert Schakne. Petitioners and Respondents have each consented to the filing of this brief. Their written consents are on file with the Clerk of this Court.

The *amici* represent news reporters, editors, publishers and broadcasters.[1] The *amici* have a direct interest in the outcome of this appeal, which will determine whether they have access under the Freedom of Information Act (FOIA) to public record criminal history information compiled and maintained by the Federal Bureau of Investigation. Such access is important to the *amici*, since they frequently utilize FOIA to report news concerning governmental activities, and they routinely rely upon public records of arrests, indictments, convictions,

1. The American Newspaper Publishers Association is a non-profit corporation whose membership consists of about 1,400 newspapers constituting over ninety percent of the total daily and Sunday newspaper circulation, and a substantial portion of the weekly newspaper circulation, in the United States. The American Society of Newspaper Editors is a nationwide professional organization of more than 950 persons who hold positions as directing editors of daily newspapers throughout the United States. The National Association of Broadcasters is a nonprofit incorporated association of radio and television broadcast stations and networks, including more than 5,000 radio stations, 900 television stations, and the major commercial broadcast networks. The Miami Herald Publishing Company is a division of Knight-Ridder, Inc. a Florida corporation, and publishes *The Miami Herald*, a daily newspaper in Miami, Florida, which is distributed throughout the State of Florida. The Washington Post, a division of the Washington Post Co., publishes a daily newspaper of general circulation in the Washington, D.C. area (circulation approximately 800,000 on weekdays, 1,000,000 on Sundays) and maintains a substantial newsgathering organization. McClatchy Newspapers, Inc. owns and operates twelve newspapers in California, Washington, and Alaska with an aggregate circulation of approximately 700,000.

acquittals and sentences to accurately report and edit news concerning organized crime, career criminals, public officials, and the operations of the Department of Justice, the Federal Bureau of Investigation, and other law enforcement agencies. A ruling granting access would markedly facilitate the traditional role the *amici* play in monitoring government and the activities of organized crime.

STATEMENT OF THE CASE

The *amici* adopt the Statement of the Case set forth by Respondents in their Brief.

SUMMARY OF ARGUMENT

The court below held that the compiled public record criminal history information of reputed organized crime figure Charles Medico was not exempt from disclosure under the Freedom of Information Act ("FOIA") because the disclosure of such information would not result in an "unwarranted invasion of personal privacy." The government argues that this holding is incorrect, implausibly asserting that a public agency's compilation of public record information regarding matters of legitimate public concern somehow creates a substantial privacy interest which outweighs the public interest in access under the FOIA.

The government's contention must be rejected and the decision of the court of appeals affirmed. Records of the criminal justice system—arrests, indictments, convictions,

acquittals and sentences—inherently involve matters of legitimate public concern. Consequently, this Court has recognized the constitutional right of the public to monitor criminal proceedings and to inspect criminal records, as well as the central role of the press in informing the public about the criminal justice system. *Press-Enterprise Co. v. Superior Court*, 106 S.Ct. 2735 (1986); *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469 (1975).

In addition, the specific information requested in this case is limited to matters of public record. Accordingly, to the extent any interest in privacy in such information might ever have existed, it would have substantially "faded" as a matter of law. No individual has any legitimate expectation that public records of official actions of the criminal justice system will be treated as "private."

Faced with the fact that the requested information is both a matter of legitimate public concern and contained in pre-existing public records, the government's strategy is to define privacy so broadly as to include any and all information relating to an individual. The government's definition of privacy as "control over information about oneself" proves too much and must be rejected as radically overbroad. This Court has recognized, as has the Solicitor General in his prior academic writings, privacy extends to control over certain *intimate personal information* relating to one's private affairs. *Whalen v. Roe*, 429 U.S. 589 (1977). It does not encompass control over *all* information, regardless of its character. Records of arrests, indictments, convictions, acquittals and sentences simply are not information concerning those intimate aspects of one's private life that give rise to a cognizable privacy interest. *Paul v. Davis*, 424 U.S. 693 (1976). But even

were the government correct in defining privacy so broadly, its argument would fail. Since the information here is compiled from admitted public records, there can be no claim to any personal right to "control" or to "disclose" it.

This case thus reduces to the government's naked assertion that the mere collection and compilation of non-private information by a public agency renders such information "private." The gravamen of a privacy claim is the wrongful public disclosure of private facts, but the government's objections to access to the information at issue actually relate to inaccurate collection and possible subsequent misuse. Thus, although the government's purported concern for the potential misuse of compiled information is admirable, it demonstrates privacy is not an issue here. The potential for misuse of collected public record information by a powerful public agency like the FBI does not create a privacy interest; it suggests the need for proper user safeguards, and public access to "watchdog" the implementation of those measures. Thus the act of governmental compilation of public records triggers an even greater interest in access: access enables citizens to determine whether and how government is using its authority to compile these records.

Finally, the court below properly held that the public interest in disclosure outweighed the *de minimis* privacy interest in the information requested here. Reports of governmental waste and corruption lie near the core of the First Amendment. Oftentimes, as in this case, disclosure of criminal history information greatly facilitates such reports.

The decision of the court of appeals should be affirmed.

ARGUMENT

THE COURT OF APPEALS CORRECTLY HELD THAT COMPILED PUBLIC RECORD CRIMINAL HISTORY INFORMATION IS NOT EXEMPT FROM THE FREEDOM OF INFORMATION ACT

Under Exemptions 6 and 7(c) of the Freedom of Information Act, records are exempt from disclosure when the personal interest in the privacy of the information they contain outweighs the public interest in their disclosure. The court below properly held that Charles Medico's privacy interest in his public record criminal history information did not outweigh the public interest in its dissemination through the FOIA. Accordingly, the decision of the court of appeals should be affirmed.

I. THE COMPILATION OF PUBLIC RECORD CRIMINAL HISTORY INFORMATION DOES NOT GIVE RISE TO A SUBSTANTIAL INTEREST IN PRIVACY

The court below correctly determined that Charles Medico had at most a minimal privacy interest in the information requested by the Reporters Committee. First, criminal history information in general is of legitimate public concern and the proper subject of press inquiry. Second, the information requested was limited to *public* record criminal history information in which any cognizable interest in privacy would be substantially reduced. Third, criminal history information is not of an intimate nature and therefore does not give rise to a protectable privacy interest, regardless of the form in which such information is maintained. Contrary to the government's contention, the compilation by a public agency of public records concerning matters of legitimate public concern

enhances the need for public access to such information; it does not create a new privacy interest. Likewise, access to this information is unrelated to employment discrimination. The objections of the government and the American Civil Liberties Union are directed to the *misuse* of compiled information, not its disclosure, and are therefore inapposite here. Finally, the government's suggestion that the content of the specific criminal history information requested should determine the weight of the privacy interest in the information must be rejected. Such an approach could be construed to repose virtually standardless discretion in the agency.

A. PUBLIC RECORD CRIMINAL HISTORY INFORMATION IS OF LEGITIMATE PUBLIC CONCERN AND A PARTICULARLY APPROPRIATE SUBJECT OF PRESS REPORTING

This Court has frequently noted the structural importance of public access to information concerning the operation of our system of criminal justice, and the special role the press plays in effectuating the right. *Press-Enterprise Co. v. Superior Court*, 106 S.Ct. 2735 (1986); (*"Press-Enterprise II"*); *Press-Enterprise Co. v. Superior Court*, 464 U.S. 501 (1984) (*"Press-Enterprise I"*); *Globe Newspaper Co. v. Superior Court*, 457 U.S. 594 (1982); *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555 (1980). Specifically, the Court has held that "commission of crime, prosecutions resulting from it, and judicial proceedings arising from the prosecutions . . . are without question events of legitimate concern to the public and consequently fall within the responsibility of the press to report the operations of government." *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469, 492 (1975).

This fundamental right of access serves interests of profound importance: public scrutiny "enhances the quality and safeguards the integrity of the fact-finding process, with benefits to both the defendant and to society as a whole." *Globe*, 457 U.S. at 606. Access fosters "an appearance of fairness, thereby heightening public respect for the judicial process" and "permits the public to participate in and serve as a check upon the judicial process—an essential component in our structure of self-government." *Id.* (footnote omitted).

The special role of the press in this constitutional scheme rests at least in part on the realities of the evolving complexity of our society. "Instead of acquiring information about trials by first hand observation or by word of mouth from those who attended, people now acquire it chiefly through the print and electronic media. In a sense, this validates the media claims of functioning as surrogates for the public." *Richmond Newspapers*, 448 U.S. at 572-73. "[I]n a society in which each individual has but limited time and resources with which to observe at first hand the operations of his government, he relies necessarily upon the press to bring to him in convenient form the facts of those operations. Great responsibility is accordingly placed upon the news media to report fully and accurately the proceedings of government, *and official records and documents open to the public are the basic data of governmental operations.*" *Cox*, 420 U.S. at 491-92 (emphasis added).[2]

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2. Although this Court's decisions addressing the qualified First Amendment right of access have generally addressed proceedings, the right has likewise been extended to records both by this Court and the lower federal courts. *Press-Enterprise II*, 106 S.Ct. 2735 (1986) (transcript of preliminary hearing); *Press-Enterprise I*, 464 U.S. 501 (1984) (transcript of voir dire); *Publicker Industries, Inc. v. Cohen*, 733 F.2d 1059 (3d Cir. 1984) (transcript of hearing); *Associated Press v. United States District Court*, 705 F.2d 1143 (9th Cir. 1983) (pre-trial documents).

The information at issue in this case is compiled from records that are "the basic data" of the criminal justice system: arrests, indictments, convictions, acquittals and sentences. Thus, their availability through the FOIA would greatly aid the press in the performance of its special constitutional role of reporting such matters to the public. There can be, and is, no dispute that the records requested are of public actions taken by public agencies about which the public has a right to know.

B. THE CRIMINAL HISTORY INFORMATION REQUESTED HERE IS STRICTLY LIMITED TO MATTERS OF PUBLIC RECORD

The public interest in access to records relating to the actions of criminal justice agencies is reflected in the laws of the fifty states. Records of arrests, indictments, convictions, acquittals and sentences are public in every jurisdiction.[3] *See* Search Group, Inc., *Privacy and Security of Criminal History Information: Privacy and the Media*, Bureau of Justice Statistics 17 (1979). All of the parties to this action admit the particular

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3. The states accord compilations of criminal history information maintained by their own law enforcement agencies varying degrees of confidentiality. Some states grant broad public access to the records, some limit their use to criminal justice purposes, some explicitly permit the news media access and others allow dissemination to potential employers. In large part, the states appear to be motivated not by any concern for individual privacy but by the desire to limit dissemination of *inaccurate* information and to protect against the possible misuse of such information by those permitted access to it.

Most of these restrictions were enacted in response to federal regulations issued by the Department of Justice governing confidentiality and use limitations at the state level. *See* Brief of *Amici Curiae* Search Group, Inc., *et al.*, with respect to petition for rehearing *en banc*, at 12. For the government to now claim that federal criminal history compilations must be "private," because some of their state counterparts are, is pure "bootstrapping." The argument must be rejected.

information requested in this case is a matter of public record.

This Court has observed that "even the prevailing law of privacy generally recognizes that the interests in privacy fade when the information involved already appears on the public records." *Cox*, 420 U.S. at 494-95.[4] This Court has held the public's entitlement to inspect public records itself entails the right of the press to gather and report the information in them: "Public records by their very nature are of interest to those concerned with the administration of government, and a public benefit is performed by the reporting of the true contents of the records by the media. The freedom of the press to publish that information appears to us to be of critical importance to our type of government in which the citizenry is the final judge of the proper conduct of public business." *Id.* at 495. Thus, irrespective of the content of the records requested, they present no cognizable privacy interest because that content is already a matter of public record.

C. COMPILED PUBLIC RECORD CRIMINAL HISTORY INFORMATION IS NOT "PRIVATE" AND ITS DISCLOSURE DOES NOT IMPLICATE PRIVACY RIGHTS

The burden the government must shoulder is the Orwellian task of demonstrating that the dissemination of public records concerning matters of public concern

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4. The common law clearly recognizes that once information is a matter of public record, it can no longer be private. *See*, B. Sanford, *Libel and Privacy*, §11.3.2 (1985) (citing cases). The Restatement (Second) of Torts is in accord: "Thus there is no liability for giving publicity to facts about the plaintiff's life that are matters of public record." *Id.* at §652D, Comment b.

compiled by a public agency constitutes an unwarranted invasion of privacy. That the arguments for such an implausible claim are deeply flawed is shown in what follows.

1. Because The Information Requested Does Not Involve Intimate Aspects Of An Individual's Private Life, No Privacy Interests Are Implicated By Its Dissemination

This Court has considered the right to privacy in numerous contexts, but the ground common to all such cases is that privacy involves the most intimate and fundamental personal aspects of one's life, "matters relating to marriage, procreation, contraception, family relationships, and child rearing and education." *Paul v. Davis*, 424 U.S. 693, 713 (1976). Thus, this Court has quoted Professor Philip Kurland with approval: privacy includes "the right of the individual not to have his private affairs made public by the government." *Whalen v. Roe*, 429 U.S. 589, 598-600 (1977).

Similarly, the common law defines the corollary tort of invasion of privacy in relevant part as giving "publicity to a matter concerning the private life of another." Restatement (Second) of Torts, §652D. The Solicitor General has likewise recognized in his academic writings that the right of privacy is implicated only by the most intimate relationships of an individual's private life: "It is my thesis that privacy is . . . necessarily related to ends and relations of the most fundamental sort: respect, love, friendship, and trust." C. Fried, *An Anatomy of Values* 140 (1970); *accord* Fried, *Privacy*, 77 Yale L.J. 475, 477 (1968).

The information requested here derives from public records of official actions taken by the criminal justice

system. The information does not involve any intimate aspect of an individual's private life. As such, the information simply does not provide a predicate for any claim of an unwarranted invasion of privacy.

2. The Government's Definition Of Privacy Is A Radical Departure From Law And Has Been Repudiated By The Solicitor General In The Past

Faced with the obviously troublesome facts that the records requested *do not* involve intimate aspects of the private life of any person and *do* consist of public records of public actions which are of legitimate public concern, the government is forced to adopt a redefinition of "privacy" which is a radical departure from, and broadening of, the traditional legal and common understanding of the term.

According to the government, privacy is "the individual's right to control dissemination of information about himself." Br. 20. Crucial to this definition is the absence of any refinement or limitation of the nature of the information to be controlled. In short, there is no requirement in the definition that the information be in some sense "private" for there to be an invasion of privacy in its dissemination. Based largely on this overbroad definition, the government argues that the disclosure of compiled criminal justice information which is otherwise a matter of public record constitutes an invasion of privacy because it violates the individual's right to control the dissemination of any information relating in any way to himself.

This definition of privacy, and consequently the government's claim that the fact of compilation somehow gives

rise to a privacy interest in public record criminal history information, must be rejected. Indeed, the Solicitor General has himself, writing in another forum, explicitly rejected the definition of privacy espoused by the government here. In response to criticism of the definition of privacy as control over information about oneself, then Professor Fried wrote:

> The particular point which [Professor Richard] Posner denies and which I on an earlier occasion had asserted is that privacy is to be defined as the control of information about oneself. Posner's analysis demolishes the notion that there is any such general right or that it would make much sense to recognize one.

Fried, *Privacy: Economics and Ethics, A Comment on Posner*, 12 Ga. L. Rev. 423, 423-24 (1978). In the article Professor Fried admits that the argument that individuals possess a right to privacy defined as the right to control information "won't go through." *Id.* at 427. The disclosure of information about an individual violates his right of privacy only if it violates some underlying substantive right. The disclosure of information standing alone does not violate any right to privacy:

> [I]f such information is obtained without violating some other right, I have not been wronged, showing in fact that the basis of right resides not in the information but in those other domains.

Id.

This argument reveals the fundamental flaw in the government's position here. There is no underlying substantive right to limit dissemination of public record criminal history information. The fact of an arrest, convic-

tion, or sentence is not an intimate private fact the disclosure of which would violate some underlying fundamental right. It is a matter of public record reflecting official actions taken with respect to the individual by the criminal justice system.

In the article which elicited the Solicitor General's abandonment of the concept of privacy he advocates here, Judge Posner rejects any privacy interest in criminal history information. *Compare* Posner, *The Right of Privacy*, 12 Ga. L. Rev. 393 (1978) *with* Fried, *supra*. Judge Posner trenchantly observes: "Much of the demand for privacy, however, concerns discreditable information, often information concerning past or present criminal activity. . . . And often the motive for concealment is, as suggested earlier, to mislead those with whom he transacts. . . . It is not clear why society should assign the property right in such information to the individual to whom it pertains; and the common law, as we shall see, generally does not." Posner, *supra*, at 399. Judge Posner states bluntly, "we have no right, by controlling the information that is known about us to manipulate the opinions that other people hold of us." *Id.* at 408.

The assertion of a privacy interest in public record criminal history information is not merely contrary to the dignity inherent in a right-holder's genuine privacy claims, it also denigrates the integrity of those individuals in society who would otherwise have access to such records. In rejecting the claim that "privacy" interests entail a right to conceal criminal history information in order to secure a "fresh start" for the rehabilitated, Judge Posner notes the idea "rests on the popular though implausible and, to my knowledge at least, unsubstantiated assumption that people do not evaluate past criminal acts [or allegations of them] rationally, for only if they intentionally

refused to accept evidence of rehabilitation could one argue that society had unfairly denied the former miscreant a fresh start." *Id.* at 409. As the court below noted, where a conviction or arrest is old and for a minor offense, the "privacy" interest in its nondisclosure is "inappreciable" because its significance to the assessment of the individual is minimal. 816 F.2d at 741 n.14.

Thus, the government's putative privacy right cannibalizes the very interests it seeks to serve. Rather than respecting individual dignity, it denies it. Rather than protecting a fundamental interest, it seeks only to help the individual to evade accountability and to mislead his fellows.

Even were the government's definition of privacy correct, it would fail to apply to the requested information because it is found in *public* records. The individual, by definition, has no right to control the disclosure of public record information. This information has already been disclosed, and its further dissemination is beyond any individual's control. What the government seeks to control here is not the disclosure of private information, but the very different power to control access to a particular source of compiled public criminal history information. That the compilation and use of such public records by a public agency does not give rise to a privacy claim is shown next.

3. The FBI's Compilation And Use Of Public Record Criminal History Information Gives Rise To An Interest In Access, Not A Right Of Privacy

The mere fact that public criminal history records have been aggregated and computerized does not change

the public character of the information compiled. Certainly Congress has yet to enact legislation to that effect. Nor does the simple act of compilation implicate the putative privacy right to "control information about oneself." This Court's FOIA decisions support this conclusion. Thus, in *FBI v. Abramson*, 456 U.S. 615 (1982), this Court held that it was error to treat "the originally compiled record and the derivative summary . . . completely differently [where] the content of the information is the same." *Id.* at 625. The Court concluded that if the information was exempt from disclosure in the first instance, it must likewise be so in the second. The same rule applies here. Where the basic information is public, no change in the form of the information will suffice to change its character.

Indeed, the nationwide compilation of criminal history information by a federal agency of enormous power, such as the FBI, enhances the need for public access. As the government well recognizes, there exists in the compilation, computerization and centralization of criminal history data the potential for abuse. Br. 24-28. That potential for abuse, however, relates to the inaccuracy of the information collected and the ends for which it is subsequently used—concerns which are not *privacy* concerns and could not be privacy concerns inasmuch as this data is already public. As the brief of the American Civil Liberties Union suggests, the true objection is to possible misuses of the data, such as to facilitate discrimination. Discrimination is different from privacy, however; indeed, public access is often the most powerful antidote to discrimination. Here, then, as in all other facets of the criminal justice process, public monitoring

can perform an essential task. Access to the information ensures that the databank cannot be selectively employed by the government, or others, either to unfairly bestow largesse or to damage an individual.

D. THE AD HOC BALANCING APPROACH ADVOCATED BY THE GOVERNMENT THREATENS TO AFFORD THE FBI STANDARDLESS DISCRETION

The government offers the ironic argument that this Court should reject the approach of the court below in part for administrative efficiency reasons. The government complains that the appeals court "imposed on the FBI the task of ascertaining whether the requested information is available as a 'public record' in some other, nonfederal government office, a fact . . . which is often not known." Br. 36. Specifically, the government is concerned that arrest records expunged at the local level may still appear in the government's compilation. The government apparently contends that the possibility of such an error would require the FBI to verify the accuracy of every compilation prior to disclosure, a burden the FBI would prefer to avoid.

Yet the government's argument only serves to underscore the *need* for disclosure. Neither the federal government, nor any local law enforcement agency, should be maintaining and using compiled criminal history information which reflects expunged arrest records, regardless of whether such information is publicly disseminated. *Menard v. Saxbe*, 498 F.2d 1017 (D.C. Cir. 1974). Indeed, if public access forces the FBI and local law enforcement agencies to employ protective measures to ensure that

such compilations are accurately maintained and updated, the FOIA has been successful.

The irony of the government's position is that the approach advocated by the court below actually places little, if any, administrative burden on the FBI, in contrast to the "standard" proposed by the government here. Under the decision below, the public record status of the information requested obviates any activity by the FBI other than disclosure. In contrast, the government would have the FBI scrutinize each entry on every criminal record requested in order to assess the putative private and public interests affected by release. The agency would be required to consider the seriousness of the crime evidenced by the entry, the age of the entry, the disposition, and the sentence imposed. Every entry would need to be considered as well as the possible nexus between each entry and the specific public interest to be served by disclosure. The government gives no indication of how this "calculus of interests" would apply in specific cases, although it is obvious that the judgments to be made would be both myriad and complex.

Analysis of the government's position thus yields an entirely different impression than does first reading. Although seemingly sensitive to privacy interests, the "calculus" proposed by the government is so complicated and involves so many factors that it provides no meaningful disclosure standard at all. To the contrary, it threatens to imbue the FBI with virtually unlimited discretion to disseminate compiled criminal history records, either in whole or in selectively redacted part, to one individual and not to another as it might see fit. Such was never the intent of the FOIA; the government's position must be rejected.

II. ACCESS TO THE REQUESTED INFORMATION SERVES IMPORTANT PUBLIC INTERESTS

This case aptly illustrates the public interests served by press access to FBI "rap sheets." CBS News assigned correspondent Robert Schakne to investigate allegations of public corruption on the part of the Chairman of the House Appropriations Subcommittee, congressman Daniel Flood. In the course of his investigation Schakne discovered that Flood had played a key role in the awarding of defense contracts to Medico Industries, a business which the Pennsylvania Crime Commission indicated was dominated by "organized crime figures." To further this investigatory effort, Schakne submitted FOIA requests for the criminal history records of the Medicos. His purpose was to determine whether Congressman Flood had in effect aided members of organized crime in obtaining highly lucrative and sensitive public contracts.

These facts suggest some of the important public interests served by access to the requested information under the FOIA. One of the traditional roles of the press is to report on governmental affairs, *see supra*, at 7-9, and the infiltration of the defense department's contract procurement process by organized crime is a news story of unusual public concern. Access to the records here would have played a material role in reporting the story, as indeed rap sheet information is frequently crucial to reporting on organized crime. Where, as may be the case here, there is a connection between organized crime and government operations, access to criminal history information may be of even greater social significance.

A second, equally important concern is whether the government officials who awarded Medico the contracts

were aware of his criminal history. If they had access to it, and awarded the contracts anyway, serious questions concerning their conduct arise. If they did not know, about Medico's record, they should have, and the importance of press access to such data is demonstrated. The press serves an important function when it reports on matters that law enforcement has been unable to police because of limited resources, incompetency, or procedures which require reform or improvement.

Law enforcement and the press alike must strive to do their jobs in an age of increasing complexity and dwindling resources. The purpose of FOIA is to reduce information costs in order to facilitate the public's right to know. Likewise, the compilation of public criminal history information by the FBI serves to reduce the specific information costs associated with effective law enforcement. Seldom has the application of the "core purposes" of the FOIA to the requested information been clearer than it is here. Without access, the press will have to engage in expensive and time consuming research to report matters of public record which the FBI already has compiled. This Court need look no further than the facts of this case—facts the Solicitor General sadly seeks to obscure—to find the substantial public interests served by access to the requested records.

CONCLUSION

For the foregoing reasons, the decision of the court of appeals should be affirmed.

Respectfully submitted,

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